

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRYSTIAN SKAGGS and
TRYSTAN SKAGGS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARK SKAGGS,

Respondent-Appellant,

and

TIFFANY SMITH,

Respondent.

UNPUBLISHED

June 12, 2007

No. 273583

Allegan Circuit Court

Family Division

LC No. 05-037411-NA

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

PER CURIAM.

Respondent-appellant appeals as of right the order of the trial court terminating his parental rights to his minor children pursuant to MCL 712A.19b(3)(g). We affirm.

Respondent-appellant contends that the trial court erred in finding that clear and convincing evidence supported termination of his parental rights pursuant to MCL 712A.19b(3)(g). We disagree. Respondent-appellant had a history of substance abuse and domestic violence and a history of incarceration related to that lifestyle. During much of the time that this case was pending before the trial court, respondent-appellant was incarcerated on a drug-related conviction, thereby rendering himself unavailable to provide care and custody for the children. Respondent-appellant was taking several medications for depression and pain associated with herniated discs, but he was receiving little or no counseling for his depression. Respondent-appellant described himself as permanently disabled and testified that he had no plan to ever become employed or to seek independent housing. He conceded that he could not afford to care for the children, and his plan for caring for the children was to receive additional disability benefits. What little stability existed in respondent-appellant's life was provided by his parents, with whom he lived.

During the time that the case was pending before the trial court, respondent-appellant made little effort to improve his situation, stopped paying child support, and seldom visited the children. The record therefore supports the trial court's finding that respondent-appellant failed to provide proper care and custody for the children and that there was no reasonable expectation that he would be able to do so within a reasonable time considering the ages of the children. The trial court therefore did not clearly err in finding that clear and convincing evidence warranted termination MCL 712A.19b(3)(g). See *In re Fried*, 266 Mich App 535, 540-541; 702 NW2d 192 (2005); MCR 3.977(J). For the same reasons, the record also supports the trial court's finding that termination was not contrary to the best interests of the children. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

We further reject as without merit respondent-appellant's contention that the trial court should have provided him additional time to improve his ability to provide proper care and custody before termination. This matter was before the trial court for approximately 1½ years, during which time respondent-appellant made little effort to seek services. Moreover, respondent-appellant was candid that he could not support the children on his existing income, that he had no intention of attempting to gain additional income through working, and that he had no intention of seeking housing other than with his parents. The record thus reveals no support for respondent-appellant's contention that the trial court should have granted him more time. Further, respondent-appellant was not entitled to services where his home state recommended that he not receive custody on his own, he had previous incarcerations and was incarcerated during these proceedings, he had minimal contacts with the agency or the children, and petitioner's original plan was to reunify the children with the mother.

Respondent-appellant also argues that the allegations of the supplemental petition applicable to him were inadequate to provide sufficient grounds for termination, even if true. Contrary to respondent-appellant's assertion, however, the petition alleges that both parents remained unable to meet the physical and emotional needs of the children.

Respondent-appellant contends that the trial court considered his receipt of disability benefits to his detriment. Review of the record reveals that the trial court noted that he received disability payments but did not disparage either the receipt of benefits or respondent-appellant's disability.

Finally, respondent-appellant contends that the trial court should have given him temporary custody of the children while the case was pending before the trial court. The children were living in the stable home of their maternal grandfather in Michigan. During much of the lower court proceedings, the children's mother was working with petitioner to regain custody. Respondent-appellant, on the other hand, was incarcerated, making himself unavailable to the children. He did not contact petitioner, and he stopped paying child support. In light of the record, it cannot be said that the trial court clearly erred in choosing the maternal grandfather as the temporary custodian of the children.

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio